

PREFACE AND ACKNOWLEDGMENT

The Department of Fair Employment and Housing (DFEH) uses a uniform case analysis framework to investigate and prosecute cases under its jurisdiction. This framework is based on the Fair Employment and Housing Act (the FEHA), its regulations, precedential decisions of the Fair Employment and Housing Commission, and decisions of State and federal civil courts. The *Case Analysis Manual* is a written description of this analytical framework and a series of summary statements of the law applicable to the most common discrimination complaints received by the Department.

The original *Case Analysis Manual* was developed by Joan Smiles, formerly of the Department's Enforcement Division, and Jim Miller, formerly of the Fair Employment and Housing Commission in 1983. Since that time, it has undergone several revisions by various Department staff and former Staff Counsel Terry Fee. The Department thanks Janie Hickok Siess, former Assistant Deputy Director, Program and Policy, for preparing the *2008 Update to the Case Analysis Manual*.

This *2008 Update to the Case Analysis Manual* is designed to be a training tool, practice pointer and reference for DFEH consultants. It is not a substitute to the statute and regulations as the primary sources for analyzing cases.

This update revises five chapters of the manual: Chapters 2, 5, 7, 8 and 9. It also issues a new Chapter 1, "Introduction to Case Analysis," and a new Chapter 6, "California Family Rights Act (CFRA)." All of these chapters are enclosed in a new binder. The enclosed materials are described below.

New Chapter 1: Introduction to Case Analysis

This chapter replaces Chapters 1 through 3 in the existing Volume I of the *Case Analysis Manual*. Like the chapters that it replaces, it provides a basic introduction to the Department's case analysis system, standards of proof, and the key types and uses of evidence. It introduces the concept of a "prima facie case" as the framework for case analysis.

Revised Chapter 2: Jurisdiction; Chapter 5: Physical or Mental Disability or Medical Condition; Chapter 7: Pregnancy, Childbirth and Related Medical/Condition; Chapter 8: Religion; and Chapter 9: Sexual Harassment

These revised chapters replace the five existing sections on these topics. They reflect more recent case law and statutory developments. The analytical outlines have been expanded to enhance the consultant's ability to focus on the key types of evidence that should be gathered. A significant addition to these chapters is

the inclusion of a “Table of Authorities” at the beginning of each chapter. This makes it easy to access the specific pages of each chapter that discuss the statute, regulation, or case that the reader seeks to review.

New Chapter 6: California Family Rights Act (CFRA)

Analysis of CFRA cases requires constant reference to the Fair Employment and Housing Act’s detailed CFRA provisions and regulations. CFRA cases frequently require that one consult the regulations that interpret the federal Family Medical Leave Act (FMLA). The new CFRA chapter is a selected summary of CFRA and FMLA rules as they affect case analysis. Like the revised chapters referenced above, the CFRA chapter contains detailed analytical outlines to assist investigations, as well as a Table of Authorities.

A New Case Analysis Manual Binder

The new binder contains Chapters 1, 2, 5, 6, 7, 8, 9, and all previously issued Revision Record Sheets. Please follow the instructions on the Revision Record Sheet No. 13 for incorporating the new chapters into existing resources. The revision record sheet should be filed behind the Revision Register tab in front of the memo dated April 15, 1998.

The *2008 Update*, along with the chapters of the *Case Analysis Manual* that are still in use, will be available on the Intranet and Internet.